

PUBLIC ACCESS, OPEN SPACE & NATURAL RESOURCES  
PRESERVATION FUND COMMISSION

REGULAR MINUTES  
**FEBRUARY 12, 2015**

The regular meeting of the Public Access, Open Space & Natural Resources Preservation Fund Commission of the County of Kauai was held at the Lihue Civic Center, Moikeha Building, in Meeting Room 2A/2B. The following Commissioners were present:

Joseph Figaroa, Chair  
Patrick Gegen, Vice Chair (joined the Commission at 8:10 a.m.)  
Randall Blake  
Theodore Blake  
Linda Dela Cruz  
Dorothea Hayashi (joined the Commission at 9:05 a.m.)  
Karen Ono

Absent and excused:  
(2 vacancies)

The following Staff members were present: Planning Department; Nani Sadora, Leslie Milnes, and Duke Nakamatsu; Deputy County Attorney Jodi Higuchi-Sayegusa.

**CALL TO ORDER**

Chair Figaroa called the meeting to order at 8:08 a.m. with five commissioners present constituting a quorum.

The Commission recessed at 8:09 a.m.

**COMMISSION SITE VISITS**

Recess and continuation of meeting for excursion to the west side and south shore areas to view areas of community interest identified through the community input process as well as to become familiar with coastal and cultural resources in this area. There will be no decision making by the Commission.

Mr. R. Blake questioned whether conditions are negotiable during permitting processes for development or improvement. Mr. Milnes noted there are Subdivision Ordinances, and Special Management Area that will trigger conditions for access.

Mr. R. Blake questioned if one condition can be exceeded to offset another. Mr. Milnes noted Kealia Kai where the SMA permit required access and the developer went further and actually bequeathed the whole conservation district lot area to the County for public purposes.

Mr. R. Blake questioned if it could be a give or take where the land owner comes back to offer something to the County if the County relinquishes something else. Attorney Higuchi-Sayegusa stated at that point there would be vested rights to build. She could not think of a scenario where a land owner wanted to come back and give more. It is usually worked out in the Planning Commission in prior stages.

#### CGB/Evslin Property (TMK: 1-3-005-040, 053, 054) Kekaha

Mr. Milnes noted the owners of the property were not present so the Commission will just be stopping alongside the roadway. He noted on the map that the neighboring L-shaped parcel is owned by the State. It has a beach reserve and a portion of land next to the development. The property next to Mamo Road had permission from the Planning Commission to build a sea wall after Hurricane Iniki to help evade erosion. The property to the East had to remove illegal walls, but this property didn't remove the wall because DLNR Office of Conservation and Coastal Lands acknowledged that the small boat harbor was affecting sand passage from the east to the west so they let that wall stay.

Mr. Milnes noted that from the aerial photographs you can see that there is a lot of vehicular traffic, so there are access issues over the private properties.

Ms. Dela Cruz noted the property has been blocked. Ms. Sadora replied that Dr. Evslin stated in his presentation to the Commission that people were using the property as access to the beach.

Ms. Hayashi questioned if there is public access to the State portion. Mr. Milnes replied that people believe it is on DLNR's land division's docket, but it's not like a developed beach access. It's just a parcel of land owned by DLNR.

Ms. Hayashi questioned if it would be a possibility to get access through the DLNR corridor to access the beach. Mr. Milnes replied that they would have to petition or request a right of entry. They may be able to request a lease of the property.

Ms. Sadora stated when the Evslin property was initially proposed to the Commission, she doesn't think anyone was aware there was State property located so close, running alongside.

Mr. Gegen noted that they could always make a recommendation that the Administration ask for that land to be deeded over to the County to combine with the Evslin property.

Mr. T. Blake questioned if the fish pond is on the Evslin property. Ms. Sadora noted that it was historically. She noted that Dr. Evslin submitted his archaeological report when he did his presentation.

Mr. R. Blake noted there is also iwi.

Mr. Milnes stated that the Evslin property runs from the highway to the ocean. To the east is a State sliver of land that has about a 37 foot frontage on the highway, runs as a pole section to the beach frontage that runs east to Mamo Road. He noted the acreage on the tax map was prior to the establishment of a certified shoreline. A certified shoreline gives the difference between unencumbered State lands seaward of the certified shoreline and the private property mauka of the certified shoreline.

Mr. T. Blake questioned if a river came through the property. Mr. Milnes replied he wasn't aware of water that flowed through the property or of any springs.

Ms. Hayashi questioned if the ponds no longer appear. Ms. Sadora replied that according to Dr. Evslin's presentation, it was historically a fishpond, but not in the current day. She noted the assessed value of the property changed quite a bit since their initial recommendation in past reports, but Dr. Evslin presented it as a \$1.2 million purchase on the table for discussion.

Mr. R. Blake questioned access to the property along the beach from Mamo Road. Mr. Milnes noted that the beach from Mamo Road to the property is unencumbered State land.

Ms. Sadora noted the red lines on the pictometry map is not to scale with the actual boundaries.

Mr. R. Blake questioned if there are any leases outstanding on the State land. Ms. Sadora replied that usually when land is leased, it is indicated on the tax assessment.

Mr. Gegen questioned if there are any restrictions on the property and if they would be able to put in parking and picnic areas. Mr. Milnes replied that he believes the zoning is open which allows for recreational uses. Improvements would require SMA permits and zoning permits.

Mr. T. Blake questioned if the area is ever flooded where the fish ponds were. Ms. Dela Cruz replied when it rains really hard it is flooded. Mr. T. Blake stated that is why it was a fishpond.

Ms. Hayashi questioned if there is a sewer line to the properties or if they are septic. Mr. Milnes noted they have individual waste water systems.

Ms. Sadora noted that zoning was not included in the past recommendations. She will include the zoning for future discussions.

Salt Pond Beach Park (Stop on Kaumualii Highway)

Mr. Milnes stated in looking at land ownership of the ag lands between the highway and Salt Pond, his understanding is that it is State land under lease with Robinson's. Ms. Sadora noted one thin strip shows Robinson's as the owner.

Mr. Milnes stated there was a question regarding runoff and the impact from the ag lands to the salt beds. He noted the lands are fallow right now, but any ag activity generally has to have a conservation use plan which is usually accepted by the east or west soil conservation districts to address things like run off and erosion. If there are any concerns with regards to ag lands, the west soils conservation district oversees the permitting of ag uses.

Mr. Gegen questioned if the conservation permit means that the leasee doesn't have to get a grubbing and grading permit; it would act as that. Attorney Higuchi-Sayegusa stated that they can get an exemption. Mr. Milnes stated they would have to take their plan to be accepted by the west soils conservation district and petition to the County for an exemption. It's not automatic.

Omao Property (TMK: 2-7-004-002) off Omao Road

Mr. Milnes noted the property is listed at \$1.45 million.

Ms. Dela Cruz questioned if the land could be used for residential as well. Mr. Milnes replied that it is agriculturally zoned so it would be subject to the ag density.

Mr. Milnes stated the bridge going north along the roadway is the property frontage. The stream that runs under the bridge and up through the valley is the south boundary. It is 35 acres.

Mr. T. Blake questioned the amount of flat land. Mr. Milnes replied that from the aerial photos he would say about 30%.

Mr. R. Blake questioned if it could be used for a community garden. Mr. T. Blake replied that there is plenty of water and that it was all sugar cane at one time.

Mr. T. Blake stated this is what all of Omao used to look like. The valley used to be all dairy. Now it is all homes.

Chair Figaroa questioned if the suggestion was to acquire it for a park. Mr. Gegen replied that the person who mentioned it suggested it could be used as a park. Currently someone is leasing the land for cattle.

Mr. T. Blake stated his only reservation in making it a park is the maintenance. They would have to remove all of the albizia trees.

Ms. Hayashi stated that she feels the County needs to consolidate their parks. Ms. Dela Cruz agreed that there aren't enough people to maintain them.

Mr. Gegen stated that if the Commission acquired it, the County could still lease it out for ag land, gain some income, and not worry about having to maintain anything. Ultimately, the County would do whatever they want with it.

Chair Figaroa questioned the percentage of community that actually uses it right now. Mr. Gegen replied they can't use it right now because it's private property. Ms. Sadora stated she would think it would be used by residents of the area. She noted it was a member of the public that suggested the Commission consider this property.

#### Lawai Kai Beach Access Koloa

Janet Mayfield, CFO and Scott Sloan, Assistant Director for the National Tropical Botanical Gardens joined the Commission from the NTBG visitor center to the access gate.

Mr. Milnes noted that from Spouting Horn along the coastline to Allerton's is the Kukuiula Resort's property. They pulled permits from the DLNR conservation and coastal lands, and an SMA permit from the County and removed all of the invasive species. They tried to save the natives and planted additional natives in an attempt to open up the view plane and restore the area on the beach path. People can drive to Allerton's gate, turn around, and park on the makai side to access the beach side of the road. It's been a nice addition and restoration of the beach area.

Mr. T. Blake noted that old man Allerton used to have a path from his house all the way to Spouting Horn.

Ms. Sadora stated that the Commission was interested in seeing what the public was doing as far as using the old road, the dangers associated, and how access could be safer or not. She noted there is access across the bay from the A&B property, but the public would have to go through the A&B permit process and it is only during non-harvesting times that the road is open.

Mr. T. Blake stated that people have been going from the gate, down to the shoreline, then coming up from the shoreline to the trail at the fence, and climbing over the fence. The

actual public access is along the rocky shoreline. Amazingly people come with coolers, backpacks, babies, hibachis, tents and there are sometimes 100 people on the beach.

Ms. Mayfield stated the trail is very dangerous.

Mr. Sloan noted the poisonous vegetation growing along the trail. Someone got sap all over his eyes and mouth and head to be rescued from the beach by EMTs because he had anaphylactic shock.

Ms. Mayfield noted that unfortunately a lot of the tour books tell people that they can go down there.

Mr. T. Blake stated that A&B allows people to come down the other side, but they are stopping people right now because they are in harvesting season. Na Ala Hele wrote a letter seeking access or how they can work something out.

Ms. Mayfield stated that part of the reason for the Lawai Kai special subzone implementation was to develop a community based makai watch to make sure that people are safe and not throwing trash on the beach. She noted there are no facilities, bathrooms, or trash cans so it's not a place where you can spend the day and expect to have bathrooms and showers. Green sea turtles also nest there. The beach and the environment can really be destroyed by a lot of people and by having lot of zodiacs come in. That was happening for a while. What is happening right now for access is actually okay; people who come down the other way or through the real beach access. It's not intrusive and does not seem to be harming anything. Fisherman and people who have been coming for a long time know and respect the beach. It's scary to think about people who don't understand which is why the makai watch is important to develop. One of the next steps in the process is to turn it over to the community to be concerned and protective of what is there.

Mr. Sloan stated that they are seeing graffiti along the rocks.

Ms. Mayfield stated there has been some vandalism at the house too. There is no one actually living there right now.

Mr. Figaroa questioned the ideal situation they envision. Ms. Mayfield replied that when they were working with the committee and representatives from the community, they were trying to figure out how the community can rally to protect the beach, but still have a normal amount of access to allow the fisherman to come down. Maybe they can limit the amount of kayaks that come up and maybe limit the number of boats with people snorkeling. It's about balance between wanting people to see the beach and have recreational time and also protecting the beach.

Mr. Sloan stated the committee was going to limit it to 30 people a day and they took surveys on how many people were on the beach at any given time. The concern was that with the increase in population, it was going to really devastate the natural habitat.

Mr. T. Blake stated that when the north shore is rough, commercial kayaks launch illegally from Kukuiula, because they don't have permits from the State, land illegally on Lawai Kai, because they don't have permits, and they claim they've been doing it for 17 years and should be grandfathered.

Ms. Mayfield stated that every Sunday is ohana day. Residents can go on the Allerton tour for free. On that day they actually go down to the house and the lawn. They want people to see the beach. It's about educating people and telling them about what has happened there and the history. It's really an opportunity to share the information, share the view, and everything they have with the people who want to see it that live here. They don't want them to have to pay. It's about the only safe way to have people come down.

Mr. T. Blake stated that the makai watch was started by the DLNR about 10 or 13 years ago. DOCARE teaches the classes. Volunteers work in shifts and they know and track all the activities on the beach. If people are doing something illegal, they note the license plate number and give it to DOCARE. They had a good response at Haena when they did the fisheries. They want to do the same at Mahaulepu. Na Ala Hele is going for year round access through the coffee grounds. He told them they have to give the land owner some kind of assurance and they have to take the position that they are there to malama the land. If you come in with a plan on how we can work together with people trained by DOCARE, it would make a big difference. That's what the makai watch is all about.

Chair Figaroa suggested more direct signage indicating that they are trying to preserve the turtles. He suggested partnering with a seal watch program. Mr. Sloan replied the makai watch is kind of the same.

Ms. Mayfield noted there are turtle nesting signs and whenever there is a nest, the area is cornered off with yellow tape. They have been careful not to alienate people. They don't want people to feel like they're telling them what to do, but they want to keep them safe, informed and protect and preserve the beach and the land. It's tricky as to how brutal you get. They don't want to put a big "no trespassing" sign, but they feel the turtle signs are a good way to have information and create some sense of understanding.

Mr. Sloan stated that the concern is always safety because this is a very dangerous path and people with coolers and little kids go down this path.

Mr. R. Blake stated there is no real easy solution. He suggested involving Senator Kouichi to make sure they can get enough funding to keep the makai watch going through DLNR. It sounds the most reasonable because putting a fence across the property line would destroy the beauty of the location.

Wahi Pana Eha (TMK: 2-8-031-199) Poipu Estates Subdivision

Mr. T. Blake stated that Hal Hammet and Francis Ching did the first archaeological survey in 1972. In 1985 they did another survey and it hasn't been touched since. This site has everything that was found in the Koloa field system. There was a large 'auwai running through the middle, there were lateral 'auwai going up to the lo'i, animal enclosures, and platforms. Six years ago Hal Hammet told him that if they could ever get this back, he and Cultural Surveys Hawaii would do financing and research. This whole area was 750 acres. All of the mounds are rocks covered over with dirt. From Kukuila golf course to Spouting Horn and Weliweli, the Koloa field system stayed in the ahupuaa of Koloa. They provided 12,000 barrels of sweet potato per year to California in the 1850s. Most of the ships going west or back north all repositioned at Koloa Landing which was the first port of entry on the island. All of the customs people were down there. Hokulea and Hikianalia are going around the world telling people about how our sustainable and environmental practices were way ahead of its time. Every modern government agency says this is totally inhospitable land that is unsuitable for agriculture because there is too much rock, but it had the two best things the Hawaiians looked for; water and sun. This is the only field system that had 100 acres of 'auwai. It wasn't straight irrigation. The 'auwai went back and forth to reach into different places. Where the irrigation could not reach, they would use condensation from rocks to grow sweet potato through a process called litho mulching.

Ms. Hayashi asked what was used for fertilizer. Mr. T. Blake replied that they used hau bush and kukui nut as mulch because they decompose quickly.

Mr. T. Blake stated this is would make a good cultural center and is in walking distance for tourists. Water was abundant and they utilized the water in every inch of land. At the shoreline they built walls and the water would hit the walls and flood the whole area.

Ms. Hayashi stated the ancient ways of doing things is always the best. When looking back at cultural history, it seems so simple.

Mr. T. Blake stated that Kaneiolouma was an end site. During Mahakiki the King would go clockwise around the island. Every ahupuaa had games and he would see what they excelled in whether it was drying fish or lauhala and he would tax them for that. He would tell them when he needed something. He would invite the winners from each ahupuaa to come to his games. They would end up at one site like Kaneiolouma where they had the Alii games. That's where the best would be drafted into his army. The parking lot that always floods used to be a fishpond. Waiohai is the name of a spring.



Kaneiolouma Heiau Complex Poipu Beach Park (Nukumoi Surf Shop)

Rupert Rowe stated that Kaneiolouma is an economic stimulus for the south side. They need Nukumoi to become the cultural, interpretive, and educational center. From the restaurant to the Waiohai to Nukumoi is zoned open, public, culture. Somehow the Planning Department changed it to become a CPR lot. When you CPR the lot, you add value to the access of the culture.

Ms. Sadora asked for a timeline of how they got to where they are and an interpretation of the project. Mr. Rowe replied that they started off 17 years ago. They were on the inside, but there was no way for the public to come in because they were surrounded by cactus. In the last 24 months, the time was ready to move. From September to December everything came down from corner to corner. It was all cleared by hand.

Ms. Sadora noted that last time the Commission visited the site they had to walk through koa bushes and it is quite a different now.

Mr. Rowe stated that they have 140 Niihau palm trees. They are ready for the next step. Kamehameha Schools and others schools also come here for education.

Mr. Gegen questioned if the Niihau palms are what was there before. Mr. Rowe replied that the whole area was palms. There is a spring inside. There are 23 idols in the Makahiki arena; five rock and rest were wood. There are house sites; one of them has bones in the site.

Mr. R. Blake questioned the location of the spring. Mr. Rowe replied when construction was done above, they buried the caves so there is no water coming out of the spring. He noted that everything that is disturbed on the top affects the bottom.

Mr. Rowe stated that the people appreciate what was done because there are no flies and mosquitos now. The wind blows down to the ocean. There are about 15 busses and vans per day that pull over to take photos. The Hyatt promotes and supports them. He is also going to meet with the Poipu Business Association.

Ms. Dela Cruz noted that the wall was built after their last visit. Mr. Rowe replied that they built the wall in the last two years using grant money. Interpretive signs should be done in about a week or two. He will clean up the viewing area and turn it over to the County.

Mr. Rowe stated that people from Rapanui will be here in about three years when Hokulea comes back. The Maoris, Tahitians, Vanuatu, Tonga, and Fiji, will all come to the open end of the Makahiki.

Mr. Gegen questioned if they will be doing any additional restoration. Mr. Rowe replied that they will put back everything that once was. There is no complication with the State. They provided 3D information to the archeologists.

Mr. R. Blake questioned the acreage. Mr. Rowe replied that they have control of 26.5 acres. The State transferred 2.5 acres to the County through and executive order.

Ms. Sadora asked Mr. Rowe to explain why the Nukumoi parcel is so important. Mr. Rowe replied that Valdemar Knudsen knew the value of the culture which is why he zoned it open, public, culture. When they divided the trust, Mr. Knudsen personally told them him not to give his dreams up because he is close to accomplishing his vision. It was never intended to be a commercial operation. Somehow along the way it changed to become a commercial operation. There was an after the fact permit for all the illegal grubbing and grading, but the damage was already done. They had to prepare for a different kind of battle with the land owner. Now things have settled down. Only the hui knows what happened.

Ms. Sadora noted that Mr. Rowe previously explained to the Commission that Nukumoi was the traditional entry point. That is why the parcel was so valuable; to restore the tradition.

Mr. Rowe noted they took down the trees along the boundary. The County hauled 35 truckloads of green waste. He is on target with his master plan and the phases he is going through. They are ready for the next step.

Mr. R. Blake questioned whether the area behind Nukumoi was part of the original rock wall. Mr. Rowe noted it was a cooking platform where the commoners would come to give their share of kalo or whatever they grew and the chief would take it as their taxes. It was all measured out for how much of each crop was brought in. By the bathrooms was another heiau. All the way to the beach is now all filled in.

Ms. Hayashi stated in her days the beach was more natural. Mr. Rowe stated that the whole park is back fill. The spring in Kaneiolouma and the ocean is the same spring.

Mr. Gegen questioned where they are in the process. Mr. Rowe stated that he made contact with some of the trustees. They were blown away with what was done.

Mr. Gegen questioned what is being asked of the Commission at this point. Mr. Rowe replied that he wants the Commission to look at it, and be positive on what is ahead of us and what is unique for all of Kauai and the world to see. There must be a visitor center and it is there already. They want to come back 20 feet, make an office in the back and a tool shed without destroying the structure and the integrity of the whole place. In the front would be all the artifacts that the Bishop Museum has and the ones from the people.

#### **NEXT MEETING DATE AND AGENDA TOPICS FOR DISCUSSION**

Chair Figaroa called the meeting back to order at 3:00 p.m.

Ms. Sadora stated that the next meeting will be on February 26. She noted that Mr. Gegen will not be available. A new commissioner will be sworn in on that day.

### **ADJOURNMENT**

Chair Figaroa adjourned the meeting at 3:01 p.m.

Respectfully Submitted by:



Duke Nakamatsu, Commission Support Clerk

- ( ) Approved as circulated on
- ( ) Approved as amended on